CF0000062388

(2)

IN THE HIGH COURT OF JUDICATURE AT JABALPUR Single Bench (Criminal)

CRIMINAL APPEAL NO.353 OF 1999

CRIMINAL APPEAL UNDER SECTION 374 (2) CR.P.C.1973.

APPELLANT: (IN JAIL) Mahesh S/o Rameshwar, aged about 56 years, R/o Dhamtari, Police Station - Dhamtari, Distt. Dhamtari (M.P.)

VERSUS

RESPONDENT: State of Madhya Pradesh

(15)

CRIMINAL APPEAL No. 3193 of 1999

Mahesh

-v-

State of Madhya Pradesh.

JUDGMENT

Post for 8-11-2001

Sd/-
Fakhruddin
Judge

(20)

CRIMINAL APPEAL NO. 3193 OF 1999

Mahesh

-V-

State of Madhya Pradesh

Appellant by	Shri R.S. Patel, Advocate.
Respondent/State	Sushri Sharmila Singhai, Panel Lawyer.

JUDGMENT

Heard learned counsel for the parties.

2. Briefly stated the facts of the case are that on 31-12-1997, the Station House Officer, Police Station Bastar received the information that a person is traveling in a bus of M.P.S.R.T.C. illegally taking Ganja with him. He sent the information to his superior officers. Thereafter he along with independent panch witnesses went to the spot and got the bus stopped and took permission of search of the bus from the Conductor and the Driver of the bus. The accused was sitting in Seat No. 27 of the bus keeping a bag. The Station House Officer gave the accused a notice under Section 50 of the N.D.P.S. Act. The accused gave consent of his search and anchnama Ex.P-4. was prepared.They found 10.00 Kg. Ganja in his bag. Out of the total Ganja, two samples of 30 gram each were taken and the rest of the Ganja was sealed. Thereafter crime was registered and accused was arrested. The samples were sent to chemical examination and it was found to be Ganja vide report Ex. P-18. After due investigation, challan was filed.

3. The accused abjured his guilt and contended that he has been falsely implicated.

4. The trial Court after considering the entire matter, has found the appellant/accused guilty for committing the offence under Section 20(B)(1) read with Section 8 of the Narcotic Drugs and Psychotropic Substances Act and sentenced him to suffer three years R.I. and find of Rs. 5,000/- and in default to further undergo R.I. for six months.

5. The trial Court in para 5 and 6 of its judgment has considered the evidence of P.W 8-T.S.Thakur, A.S.I. In his statement he deposed about the manner in which he received the information and went to the spot and prepared certain Panchanamas. Those Panchanamas have been proved. In para 8, evidence of P.W. 5-Smt. Sushila Tekam, S.I. has been considered. She also stated that on receiving information she prepared Ex.P-11 and the accused was arrested. P.W. 1 Karnikar, who is an independent witness, has supported the prosecution version. In para 10, evidence of P.W.7 Janardan Pandey, Conductor and P.W.3 Kamal Singh Mahant have been considered. They have also supported the prosecution version. P.W. 2-Mulchand has also stated that the seized article was brought to the Police Station where it was weighed and found 10.00 Kg. Two samples were separated and the rest was sealed and Ex. P-11 was prepared.

6. We have also considered the entire facts and circumstances of the case and gone through the record of the case and found that the trial Court has rightly held the accused guilty for the offence.

7. The learned counsel appearing for the appellant is also not in a position to assail the findings arrived at by the learned trial Judge.

8. Therefore, the conviction of the appellant under Section 20(B)(1) read with Section 8 of Narcotic Drugs and Psychotropic Substances Act is maintained.

9. Heard the learned counsel for the appellant on the question of sentence. Counsel submits that the appellant has been sentenced for 3 years R.I. and fine of Rs. 5,000/- and in default to further undergo for six months R.I. He has already undergone sentence of 2 ½ years. He prays that the sentence may be reduced to the period already undergone.

10. Having considered the facts and circumstances of the case, the sentence awarded to the appellant is reduced to the period already undergone. So far as the fine part of the sentence is concerned, it is maintained.

11. Appeal is partly allowed.

Sd/-
Fakhruddin
Judge

JUDGE
8-12-2001